Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

GARLAND COMMUNITY HOSPITAL
C/O LAW OFFICE OF P MATTHEW ONEILL
6514 MCNEIL DR BLDG 2 STE 201
AUSTIN TX 78729

Respondent Name
TPCIGA FOR RELIANCE NATIONAL INDEMNITY

Carrier's Austin Representative Box
Box Number 50

MFDR Tracking Number
M4-98-D709-01

MFDR Date Received
July 6, 1998

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Please see the attached medical records and copy of the bill. Some of the care received was for the treatment of the patient's work related condition. Please advise what amount is the correct amt the insurance co should pay."

Amount in Dispute: $6,575.72

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "In the opinion of the otolaryngology (ENT) reviewer that the sinus surgeries performed on 11/3/97, 11/4/97 and 11/12/97 were not due to effects naturally occurring form the compensable lumbar spine injury of 2/17/95. The pre-existing sinus problems are not causally related to the work injury. Per the reviewer, sinus surgery and ear surgery are outpatient procedures – with occasional overnight stays for nausea, pain control or exacerbations of underlying medical problems. The documentation does not support a need for the hospital stay from 11/3/97 through 11/17/97. Therefore; Platinum did not make an additional payment."

Response Submitted by: Platinum Safety and Claims Services, LLC, 501 Shelley Drive, Tyler, Texas 75711

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
November 3, 1997 to November 14, 1997	Outpatient Hospital Services	$ 6,575.72	$6,125.75

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Former 28 Texas Administrative Code §133.305, effective June 3, 1991, 16 *Texas Register* 2830, sets out the procedures for resolving medical fee disputes.
2. Former 28 Texas Administrative Code §134.401, effective August 1, 1997, 22 *Texas Register* 6264, sets out

the fee guidelines for acute care inpatient hospital services.

3. 28 Texas Administrative Code §134.1 provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

   - M – Reduced to Fair and Reasonable
   - F – Reduced According to Fee Guideline
   - N – Not Documented
   - 360 – ALLOWANCE FOR THIS PROCEDURE WAS MADE AT THE "FAIR AND REASONABLE" AMOUNT FOR THIS GEOGRAPHICAL AREA.
   - 480 – REIMBURSEMENT BASED ON THE ACUTE CARE INPATIENT HOSPITAL FEE GUIDELINE PER DIEM RATE ALLOWANCES.
   - 205 – THIS CHARGE WAS DISALLOWED AS ADDITIONAL INFORMATION/DEFINITION IS REQUIRED TO CLARIFY SERVICES(S)/SUPPLY(S) RENDERED.
   - 205 – PLEASE SUBMIT THE CPT CODES FOR THE CT SCANS. THE HOSPITAL BILL IS BEING PAID AT 50% PENDING REVIEW ON THE MEDICAL NECESSITY OF THE SINUS SURGERY.

Findings

1. The respondent's position statement asserts that "In the opinion of the otolaryngology (ENT) reviewer that the sinus surgeries performed on 11/3/97, 11/4/97 and 11/12/97 were not due to effects naturally occurring form the compensable lumbar spine injury of 2/17/95. The pre-existing sinus problems are not causally related to the work injury. Per the reviewer, sinus surgery and ear surgery are outpatient procedures – with occasional overnight stays for nausea, pain control or exacerbations of underlying medical problems. The documentation does not support a need for the hospital stay from 11/3/97 through 11/17/97." Former Texas Labor Code §408.027(d) [currently 408.027(e)], Acts 1993, 73rd Legislature, chapter 269, effective September 1, 1993, requires that "If an insurance carrier disputes the amount of payment or the health care provider's entitlement to payment, the insurance carrier shall send to the commission [now the Division], the health care provider, and the injured employee a report that sufficiently explains the reasons for the reduction or denial of payment for health care services provided to the employee." The respondent did not submit any copies of explanations of benefits for review. No documentation was found to support that the insurance carrier sent the required report containing sufficient explanation of the above reason(s) for the reduction or denial of payment to the health care provider or the injured employee. The Division concludes that the respondent has not met the requirements of §408.027. This denial reason is not supported.
2. Additionally, the respondent's position statement asserts that "The documentation does not support a need for the hospital stay from 11/3/97 through 11/17/97. Therefore; Platinum did not make an additional payment. In fact, we have requested a refund of the $6,172.25 payment." Former 28 Texas Administrative Code §133.300(h), effective February 20, 1992, 17 *Texas Register* 1105, requires that "Payment of all allowable charges shall be remitted to the health care provider no later than 45 days after receipt of the completed bill by the carrier, unless the insurance carrier's audit of health care services will delay payment beyond the 45th day after receipt of the completed bill by the carrier. If the audit delays payment, the carrier shall pay no less than 50% of the amount billed no later than the 45th day after the receipt of the completed bill. Desk audits and on-site audits shall be performed as described in §133.301 and §133.303 of this title (relating to Carrier Audit of Bills from Health Care Providers, and Procedure for On-site Audits; Payments after Audit). Except as provided in §133.303, if the payment as required by this subsection and the Act, Texas Civil Statutes, Article 8308-4.68(b), has been made, the supplemental payment or request for refund, and a notice of medical payment dispute as described in §133.304 of this title (relating to Notice of Medical Payment Dispute), shall be provided no later than 60 days after receipt of the completed bill from the health care provider." Review of the submitted information finds that the explanation of benefits submitted by the requestor shows a review date of January 31, 1998. The date of the *NOTICE OF UTILIZATION REVIEW FINDINGS* submitted by the respondent is April 9, 1998. This date is greater than 60 days from the date the bill was audited as listed on the initial explanation of benefits. The insurance carrier did not submit a copy of the alleged request for a refund for consideration in this review. The Division concludes that the insurance carrier did not provide a supplemental payment or request for refund including the required notice of medical payment dispute as described in §133.304 within 60 days after receipt of the completed bill from the health care provider. The respondent has not met the requirements of §133.300(h). The insurance carrier has therefore forfeited the right to request a refund or to dispute payment.
3. Moreover, former 28 Texas Administrative Code §133.304(g), effective February 20, 1992, 17 *Texas Register* 1105, requires, in pertinent part, that "When a treatment or service is reduced or denied on the recommendation of a peer review initiated by the carrier, a copy of the reviewer's report and the professional discipline and specialty information (not to include name, address, letterhead, or other specific identification)

of the reviewer shall be included with the notice of medical payment dispute and submitted to the health care provider, injured employee, and employee's representative." Review of the submitted information finds no documentation to support that the required notice of medical payment dispute including the peer reviewer's report was submitted to the health care provider, injured employee, and employee's representative. The Division therefore concludes that the insurance carrier has not met the requirements o f §133.304(g). For the above reasons, the disputed services shall be reviewed per applicable Division rules and fee guidelines.

4. This dispute relates to inpatient services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.401, effective August 1, 1997, 22 TexReg 6264. Review of the submitted documentation finds that the length of stay was 1 days. The type of admission is surgical; therefore, the standard surgical per diem amount of $1,118.00 multiplied by the length of stay of 11 days yields a reimbursement amount of $12,298.00. This amount less the amount paid by the insurance carrier of $6,172.25 leaves an amount due to the requestor of $6,125.75. This amount is recommended.
5. Additionally, Texas Administrative Code §134.401(c)(4)(B)(ii), requires that, when medically necessary, Computerized Axial Tomography (CAT scans) (revenue codes 350-352, 359), shall be reimbursed at a fair and reasonable rate. Review of the medical bill finds that the requestor is disputing payment of a CAT scan (revenue code 350).
6. Texas Administrative Code §134.401(c)(4)(B)(iv), further requires that, when medically necessary, Blood (revenue codes 380-399), shall be reimbursed at a fair and reasonable rate. Review of the medical bill finds that the requestor is disputing payment for BLOOD/STOR-PROC (revenue code 390).
7. 28 Texas Administrative Code §134.1(f), effective October 7, 1991, 16 *Texas Register* 5210, requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, sec. 8.21(b), until such period that specific fee guidelines are established by the commission."
8. The former Texas Workers' Compensation Act section 8.21 was repealed, effective September 1, 1993 by Acts 1993, 73rd Legislature, chapter 269, section 5(2). Therefore, for services rendered on or after September 1, 1993, the applicable statute is the former version of Texas Labor Code section 413.011(b), Acts 1993, 73rd Legislature, chapter 269, section 1, effective September 1, 1993, which states, in pertinent part, that "Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commission shall consider the increased security of payment afforded by this subtitle."
9. Review of the submitted documentation finds that:
   - The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated for the CAT Scan or blood services.
   - The requestor does not discuss or explain how payment of the amount sought would result in a fair and reasonable reimbursement for the CAT scan or blood services in this dispute.
   - The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement for the disputed CAT scan or blood services.
   - The requestor does not discuss or explain how payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

   The request for additional reimbursement for the CAT scan or blood services is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the CAT scan or blood services in dispute. Additional payment for the CAT scan and blood services is not recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that additional reimbursement is due. As a result, the amount ordered is $6,125.75.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $6,125.75 plus applicable accrued interest per 28 Texas Administrative Code §134.803, due within 30 days of receipt of this Order.

	Grayson Richardson	December 28, 2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.